

REMARKS

Claims 15-26 and 28-32 are pending herein with Claims 15, 28, and 32 being independent claims. Claim 18 has been allowed; Claims 24-25 have been objected to; and Claims 15-17, 19-23, 26, and 28-32 have been rejected.

35 U.S.C. § 112:

Claim 18 was rejected under 35 U.S.C. § 112 on the grounds that the phrase “said first cutter” does not have the correct antecedent basis. This has been corrected.

35 U.S.C. § 103:

Claims 15-17, 19-23, 26, and 28-32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,337,084 to Stevens, et al. in view of U.S. Patent No. 6,045,851 to Cross and further in view of U.S. Patent No. 6,415,708 to Huber, et al. Stevens was described as showing a system with an extruder, a segmenter for cutter the extrudate, a dryer for drying the segments, a mill for milling to provide granules, and a sieve for screening and sorting the granules. Stevens was described as not disclosing an extruder comprising a cutter or a second dryer. Cross was described as showing a cutter for cutting a cooked extrudate as it emerges from the extruder. Likewise, Huber was described as having an extruder with a rotating knife assembly positioned adjacent to the outlet of the extruder.

The Applicant submits that the rejection is in error because, among other reasons, the Examiner is considering the segmenter of Stevens to read on the claimed comminuting device as opposed to the extruder with a cutter that the Examiner admits is shown in Cross and Huber. The

Applicant submits that one of ordinary skill in the art would not confuse the segmenter of Stevens that cuts the wet extrudate with a comminuting device separate from the extruder that forms the crumbs from the baked loaves.

Moreover, Stevens itself describes the relationship between the extruder and the segmenter. Specifically, the speed of the extruder and the speed of the segmenter must be timed together in order to vary or produce segments of predetermined lengths.

In turn, experience has shown that there is a relationship between noodle velocity (i.e. the velocity of noodle emerging from the die), cutting rate and segment length. For a given noodle velocity, it is possible to vary the cutting rate to produce segments of a predetermined length.

The extruder can have any suitable number of orifices. Such an extruder would produce a plurality of noodles and thereby raise the output production levels. It is anticipate (sic) that the best result would be obtained by cutting the plurality of noodles concurrently. For example, a rotating knife could be located to segment the plurality of noodles in each complete rotation. While an extrudable mixture can be fed into the extruder by hand, we prefer to feed the extrudable mixture on a continuous basis. It is our experience that when the extruder is being run on a continuous basis, it is easier to produce segments of predetermined lengths.

Col. 4, lines 37-53.

Significantly, Stevens describes the segmenter either as being “in close proximity” or “attached” to the extruder.

While the exact nature of the cutting means is not critical, we prefer a rotating knife located in close proximity to the outlet of the extruder.

Col. 4, lines 65-68. (Emphasis added.)

Water and the lysine hydrochloride were extrude through a 10 mm die to produce a linear flow of dense cohesive materials which was cut into segments with a knife attached to the outlet of the extruder.

Col. 9, lines 26-29. (Emphasis added.)

The Applicant thus submits that the Examiner's statement that "Stevens, et al. do not disclose an extruder comprising a cutter" is demonstrably not supported by the explicit language of Stevens. Rather, the segmenter of Stevens is no different from the cutter of Cross and Huber in that it is "attached" or in "close proximity" to the extruder and cuts the wet extrudate. Any attempt to construe the reference otherwise would be a clear error of fact. The Applicant thus submits that the cited references do not show at the least the comminuting device separated from the extruder for comminuting loaves to form crumbs with a further cutter of Claim 15, means for cutting separate from the extruder for producing product crumbs of Claim 28, or a cutting station separate from the extruder and downstream of the first drying station of Claim 32.

Out of an abundance of caution, the Applicant has amended the independent claims to indicate that the cutter is "adjacent" to the extruder. *See* Paragraph [0038] of the application as published. ("Adjacent to the die of the extruder 460 may be a cutter 480.") Likewise, compare this language to the nearly identical language quoted above from Stevens. The Applicant thus submits that the independent claims, and the dependent claims thereon, are patentable over the cited references.

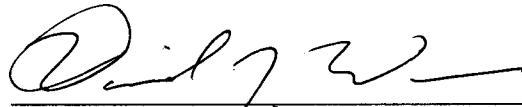
To the extent that the patentability of the claims over these references is in any way disputed, the Applicant respectfully requests evidence showing that one of ordinary skill in the art would consider the segmenter of Stevens to read on anything other than a cutter adjacent to an extruder.

CONCLUSION

The Applicant believes that it has responded in each matter raised in the Office Action. Allowance of all claims is respectfully requested. Any questions may be directed to the undersigned at 404.853.8028.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel J. Warren", is written over a horizontal line.

Daniel J. Warren
Reg. No. 34,272

SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street, NE
Atlanta, Georgia 30309-3996
(404) 853-8000
(404) 853-8806 (Facsimile)
daniel.warren@sutherland.com